

### **REMARKS**

By this amendment, claims 1-5 and 7-9 are pending. Claims 1-5 and 7-9 stand rejected. Claims 1 and 9 have been amended. In view of the amendments to the claims and the remarks below, Applicant respectfully requests that the rejections be withdrawn and the claims be allowed.

Claim 9 stands rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent Application Publication No. 2002/0016590 to Schnitzler ("Schnitzler"). The rejection is respectfully traversed.

Claim 9 recites an instrument for plasma coagulation. The instrument includes "a tubular probe body with a tube wall defining a lumen through which an inert gas is conducted." The instrument also includes "an ignition electrode located within the lumen" and a current conductor. The instrument includes "a fixing device fixing said ignition electrode in a predetermined position within said probe body, and comprising a flat body with longitudinal edges by means of which said flat body is attached to said tube wall such that said flat body extends diametrically across said lumen, and to which the ignition electrode is attached such that the ignition electrode extends further into the lumen in a direction of said outlet than the flat body of the fixing device." As explained below, Schnitzler fails to disclose each of the limitations of claim 9.

Schnitzler discloses a probe electrode that includes a flat body in the form of a discharge portion of the electrode. Schnitzler, ¶ [0009]. The discharge portion of the electrode aids in centering the electrode. Schnitzler, ¶ [0016]. The electrical lead portion of the electrode is spot-welded to the discharge portion. Schnitzler, ¶ [0018]. However, differences exist between the discharge portion of Schnitzler and the flat body of the present application. One significant difference is that the flat body recited in claim 9 is attached to the ignition electrode such that "the ignition electrode extends further into the lumen in a direction of said outlet than the flat body of the fixing device." This is advantageous for at least the reason that "[t]he distance separating the tip 21 of the ignition electrode 20 from the outlet 12 does not depend on the process of fixing the ignition electrode within the probe body 10; it depends entirely on the precision of manufacturing the flat body 30 and fixing the ignition electrode 20 thereto." Application, ¶ [0028]. Additionally, in claim

9, the flat body is a separate device from the recited ignition electrode. In Schnitzler, the discharge portion is a part of the electrode. For at least these reasons, Schnitzler does not anticipate claim 9, and claim 9 is allowable over Schnitzler. Accordingly, Applicant respectfully requests that the rejection be withdrawn and that the claim be allowed.

Claims 1-5, 7 and 8 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,320,621 to Gordon et al. ("Gordon") in view of U.S. Patent No. 5,720,745 to Farin et al. ("Farin"). The rejection is respectfully traversed.

Claim 1 recites an instrument for plasma coagulation. The instrument includes "a tubular probe body with a tube wall defining a lumen through which an inert gas is conducted." The instrument also includes "an ignition electrode located within the lumen ..., a current conductor and "a tubule made of a high-temperature-resistant material." The instrument includes "a fixing device fixing said ignition electrode in a predetermined position within said probe body, and comprising a flat body with longitudinal edges by means of which said flat body is attached to said tube wall such that said flat body extends diametrically across said lumen, and to which the ignition electrode is attached." The "tubule is inserted into said lumen in the region of said outlet, and said flat body is disposed at an end of the tubule that faces away from said outlet." As explained below, neither Gordon nor Farin teach all of the limitations of claim 1.

Gordon teaches an electrode that is held in place by a clip that is "preferably formed from a cylindrical tube which has been deformed into a configuration which has a central conduit-like section which engages and supports the electrode and two opposed conduit-like lobe portions which extend outward and slightly compress against the nozzle to hold the electrode and clip in place in the nozzle." Gordon, Abstract. The clip in Gordon, however, is not a flat body. A portion of the clip is flat. Gordon, fig. 6, ref. no. 42. However, this portion does not extend "diametrically across said lumen," as recited in claim 1. Instead, the portion is radially-positioned and only extends across less-than-half of the lumen. Thus, Gordon fails to teach the claim 1 flat body. Additionally, Farin fails to remedy the inadequacies of Gordon. Farin, used in the Office Action to teach the inclusion of an inner tubule, fails to teach the recited flat body. Thus, claim 1 is allowable

over the combination of Gordon and Farin for at least these reasons. Claims 2-5, 7 and 8 depend from claim 1 and are allowable over the cited combination for at least the same reasons that claim 1 is allowable over the cited combination. Accordingly, Applicant respectfully requests that the rejection be withdrawn and that the claims be allowed.

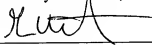
Claims 4 and 5 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Gordon in view of Farin and further in view of Schnitzler. The rejection is respectfully traversed.

Claims 4 and 5 depend from claim 1, and hence, as explained above in relation to claim 1, are not rendered unpatentable by either Gordon or Farin or the combination thereof. Schnitzler also fails to remedy the inadequacies of Gordon and Farin. In claim 1, the flat body is disposed at the end of a tubule that is near the instrument outlet. A “tubule is inserted into said lumen in the region of said outlet, and said flat body is disposed at an end of the tubule that faces away from said outlet.” Schnitzler does not disclose an inner tubule near the outlet of the device nor a flat body disposed to the other side of the inner tubule. Additionally, Schnitzler does not teach that “a tip of the ignition electrode extends further into the lumen than the flat body of the fixing device,” as recited by claim 1 and as explained above in relation to claim 9. Furthermore, the flat body of claim 1 is a separate device from the recited ignition electrode, whereas in Schnitzler, the discharge portion is a part of the electrode. For at least these reasons, Schnitzler fails to remedy the inadequacies of the Gordon and Farin combination. Accordingly, claims 4 and 5 are allowable over the cited combination. Applicant respectfully requests that the rejection be withdrawn and that the claims be allowed.

In view of the above, Applicant believes the pending application is in condition for allowance. If there are any additional charges in connection with this filing or any subsequent filings (including but not limited to issue fees), the Examiner is respectfully requested and authorized to charge Deposit Account No. 04-1073 therefor under Order No. E7900.2041/P2041.

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